

MEMORANDUM (August 1, 2002)

FROM: W. J. Srstka, Jr., Circuit Judge

TO: Lawyers and interested parties

RE: Changes to collection procedures

EFFECTIVE: September 3, 2002

At our meetings in June and July, the members of the bar present agreed to the following changes in collection practice. I thank them for their help and advice and give a special thank you to Jim Myers who prepared the forms. With the exception of form #6, the cover sheet, the forms are directory and not mandatory; however, something similar should be used. I shall try to get this memorandum and forms distributed in plenty of time so you may change your procedure. I request that you notify other collection agencies out of the Second Circuit of the Changes.

The following summary of changes in procedure must be followed.

1. The law requires separate taxation of disbursements after judgment.
2. The law requires judicial approval and separate taxation of prejudgment interest in the same manner as taxation of disbursements.
3. The law limits prejudgment interest on open accounts to ten percent. (See *Scotland Vet Supply v. ABA Recovery Service, Inc.*, 583 N. W. 2d 834 (S. D. 1998))
4. Plaintiff must make a showing to obtain prejudgment interest based upon contract.
5. If you use the forms, please submit Forms 1, 2, 4, 5, and 6 to the judge when you obtain the judgment. Form 3 is served after judgment.
6. Only suits by regulated lenders may recover attorney fees, upon separate showing, judicial approval and proper taxation.